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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/797,646  
Filing Date: March 10, 2004  
Appellant(s): HARPER ET AL.

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Michael Y. Saji  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed June 1, 2010 appealing from the Office action mailed January 14, 2010.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,904,033	Perras	6-2005
2003/0158959	Jayapalan et al	8-2003
6,005,852	Kokko et al	12-1999
6,791,945	Levenson et al	9-2004

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

1. **Claims 1, 6-11, 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perras et al (U.S. Patent No. 6,904,033, hereinafter Perras), in view of Jayapalan et al (Patent Application Publication No. 2003/0158959, hereinafter Jayapalan).**

2. With respect to claim 1, Perras discloses a method for establishing a data communication session with a mobile subscriber in a wireless communication network (Col. 1, lines 8-11), comprising:

receiving a registration request at a packet data server to register a data communication session (Col. 3, lines 39-40, *MIP registration request*) between the packet data server and the mobile subscriber (Col. 3, lines 39-40, *PDSN*) prior to a

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radio air link being established (Col. 4, 63-65, where the radio air link is not established until the MIP registration is complete) with the mobile subscriber (Col. 3, line 38, *mobile node*);

Sending a reply signal from the packet data server to trigger the establishment of a radio air link between the base station and the mobile subscriber to allow communication between the packet data server and the mobile subscriber (Col. 4, lines 63-65, *Agent Advertisement message*; Figure 2, **44**);

Establishing a data communication session between the mobile subscriber and the packet data server using the data link connection.

But does not disclose waiting a set time period.

However, Jayapalan disclose waiting a time period after the registration request and the reply to allow establishment of the radio air link before sending a link before sending a link configuration request to the mobile subscriber (paragraph [0024], lines 15-20), wherein the link configuration request is used to set up a data link connection between the mobile subscriber and the packet data server (paragraph [0024], lines 1-6).

It would have been obvious to one skilled in the art at the time the invention was made to combine the PPP session configuration of Perras with the timeout timers of Jayapalan. The motivation being, to improve efficiency of establishing a PPP session by waiting a predetermined time duration for configuring users on the wireless network.

3. With respect to claim 6, the combination of Perras and Jayapalan discloses the method of claim 1. Perras further discloses wherein registering the data session

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comprises registering the data session according to an A11 protocol compatible with a Point-to-Point Protocol (PPP) communication network (Col. 3, lines 33-34).

4. With respect to claim 7, the combination of Perras and Jayapalan discloses the method of claim 1, Perras further discloses wherein sending the link configuration request signal comprises sending a Point-to-Point Protocol (PPP) based signal (Col. 3, lines 33-37).

5. With respect to claim 8, Perras discloses a method for communicating with a mobile subscriber in a wireless communication network (Col. 1, lines 8-11), comprising:

Receiving a request at a packet data server to register a data session (Col. 3, line 39, *MIP registration request*) between a mobile subscriber and the packet data server (Col. 3, lines 39-40, *PDSN*) prior to a radio air link being established with the mobile subscriber (Col. 4, 63-65, where the radio air link is not established until the MIP registration is complete);

Sending an initial link configuration signal for the mobile subscriber from the packet data server (Col. 4, lines 63-65, *Agent Advertisement message*; Figure 2, **44**), wherein a link configuration signal is used to establish a data link connection between the mobile subscriber and the packet data server;

But does not disclose waiting a set time period.

However Jayapalan disclose waiting a first set time period from sending the initial link configuration request signal for the mobile subscriber before sending a second

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initial link configuration request signal (paragraph [0024], lines 15-20), wherein the first set time period provides additional time for the establishment of the radio air link (paragraph [0013], lines 1-16).

It would have been obvious to one skilled in the art at the time the invention was made to combine the PPP session configuration of Perras with the timeout timers of Jayapalan. The motivation being, to improve efficiency of establishing a PPP session by waiting a predetermined time duration for configuring users on the wireless network

6. With respect to claim 9, the combination of Perras and Jayapalan discloses the method of claim 8, Jayapalan further discloses the method providing a second wait time period triggered by a data communications error event before sending a link configuration request signal to the mobile subscriber (paragraph [0020], lines 1-7).

7. With respect to claim 10, the combination of Perras and Jayapalan discloses the method of claim 8, Perras further discloses repeatedly waiting a time equal to the first wait time period until an air link to the mobile subscriber is successfully established (Col. 5, lines 40-47).

8. With respect to claim 11, the combination of Perras and Jayapalan discloses the method of claim 9, Jayapalan further discloses the link configuration signal is a Point-to-Point Protocol (PPP) based communication protocol which upon configuration

established a PPP connection between the mobile subscriber and the packet data server (paragraph [0002], lines 1-6).

9. With respect to claim 13, the combination of Perras and Jayapalan discloses the method of claim 8, Jayapalan discloses the radio air link allows the establishment of a data communication session (paragraph [0002], lines 1-6).

10. With respect to claim 16, Perras discloses a method for establishing a data communication session with a mobile subscriber in a wireless communication network, the method comprising (Col. 1, lines 8-11):

Sending the configuration request signal to the mobile subscriber after a triggering event (Col. 4, lines 63-67), wherein the triggering event indicates that an air link is established with the mobile subscriber (Col. 4, lines 50-59); and

Establishing a PPP connection between the mobile subscriber and the packet data server and providing the data communication session over the PPP connection (Col. 5, lines 16-18).

But does not disclose delaying the configuration request.

However Jayapalan disclose delaying a transmission of a configuration request for a Point-to-Point (PPP) protocol connection setup signal from the data packet server module to the mobile subscriber after receiving a registration request at the data packet server (paragraph [0020], lines 1-7).



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11. With respect to claim 18, Perras discloses the method of claim 16, further comprising sending a signal from the packet data server to trigger the establishment of a radio air link between the base station and the mobile subscriber to allow communication between the packet data server and mobile subscriber (Col. 4, lines 65-67, *Responsive to the receipt*).

It would have been obvious to one skilled in the art at the time the invention was made to combine the PPP session configuration of Perras with the timeout timers of Jayapalan. The motivation being, to improve efficiency of establishing a PPP session by waiting a predetermined time duration for configuring users on the wireless network.

12. With respect to claim 17, the combination of Perras and Jayapalan discloses method of claim 16, Jayapalan further discloses a method wherein the triggering event is a time-based trigger signal (paragraph [0020], lines 1-7).

13. With respect to claim 18, the combination of Perras and Jayapalan discloses method of claim 16, Jayapalan further discloses a method wherein withholding the data session configuration request signal continues until an event-based trigger signal is received by the packet data server (paragraph [0020], lines 1-7).

14. With respect to claim 19, Perras discloses a system for wireless communication (Col. 1, lines 8-11), comprising:

a packet data server (Col. 3, lines 39-40, *PDSN*);

a communication network adapted for carrying control and data packets between a mobile subscriber and the packet data server (Col. 3, lines 37-41);

said packet data server including a processor that triggers the establishment of the radio air link and attempts sending a configuration request signal over said communication network (Col. 4, lines 63-65) responsive to an indication that said radio air link is ready to carry said configuration request signal to said mobile subscriber to establish a first Point-to-Point (PPP) connection (Col. 4, lines 65-67).

But does not disclose a delay time.

However, Jayapalan discloses a radio air link portion of said communication network (paragraph [0005], lines 1-4), the radio air link having associated therewith an air link establishment delay time (paragraph [0024], lines 15-20).

It would have been obvious to one skilled in the art at the time the invention was made to combine the PPP session configuration of Perras with the timeout timers of Jayapalan. The motivation being, to improve efficiency of establishing a PPP session by waiting a predetermined time duration for configuring users on the wireless network.

15. With respect to claim 20, the combination of Perras and Jayapalan discloses the system of claim 19. Jayapalan further discloses the indication comprises a time-based signal indicating that a wait time exceeding the air link establishment delay time has elapsed (paragraph [0020], lines 12-14).

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16. With respect to claim 21, the combination of Perras and Jayapalan discloses the system of claim 19, Perras the indication comprises an event-based signal indicating that the air link has been successfully established to the mobile subscriber (Col. 4, lines 65-67).

17. With respect to claim 23, the combination of Perras and Jayapalan discloses the method of claim 1, Jayapalan discloses where the time period is determined from the packet data server pinging a node and determining a network propagation time (paragraph [0025], block **612**).

**18. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Perras and Jayapalan, as applied to claim 1 above, in view of Levenson et al (Pat. No. 6,791,945) hereinafter Levenson.**

19. With respect to claim 3, the combination of Perras and Jayapalan discloses the method of claim 1, but fails to disclose a method for including a dynamic wait time.

However Levenson disclose a dynamic duration for the set time period based on network conditions (Levenson: Col. 2, lines 42-60).

It would have been obvious to one skilled in the art at the time the invention was made to combine the combination of Perras and Jayapalan with Levenson because a dynamic wait time increases the versatility of configuring users on the wireless network (Levenson: Col. 4, lines 10-21).

**20. Claims 4, 5, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Perras and Jayapalan, as applied to claims 1 and 8 above, in view of Kokko et al (Pat. No. 6,005,852) hereinafter Kokko.**

21. With respect to claim 4, the combination of Perras and Jayapalan discloses the method of claim 1, but fails to disclose a method for a wait time duration between 10 milliseconds and 1 second.

However Kokko discloses waiting the time period comprises providing a fixed wait time period having a duration between 10 milliseconds and 1 second (Kokko: Col 9, lines 5-13).

It would have been obvious to one skilled in the art at the time the invention was made to combine the combination of Perras and Jayapalan with Kokko because a wait time duration between 10 milliseconds and 1 second increases the efficiency of configuring users on the wireless network (Kokko: Col. 8, lines 49-56).

22. With respect to claim 5, the combination of Perras and Jayapalan discloses the method of claim 1, but fails to disclose a method for a wait time duration of 100 milliseconds.

However Kokko discloses waiting the time period comprises providing a fixed wait time period having a duration of approximately 100 milliseconds (Kokko: Col 9, lines 5-13).

It would have been obvious to one skilled in the art at the time the invention was made to combine the combination of Perras and Jayapalan with Kokko because a wait time duration of 100 milliseconds increases the efficiency of configuring users on the wireless network (Kokko: Col. 8, lines 49-56).

23. With respect to claim 12, the combination of Perras and Jayapalan discloses the method of claim 8, but fails to disclose a method a for a wait time between 10 milliseconds and 1 second.

However Kokko discloses waiting the first time period comprises waiting a first time period having a duration between 10 milliseconds and 1 second (Kokko: Col 9, lines 5-13).

It would have been obvious to one skilled in the art at the time the invention was made to combine the combination of Perras and Jayapalan with Kokko because a wait time duration between 10 milliseconds and 1 second increases the efficiency of configuring users on the wireless network (Kokko: Col. 8, lines 49-56).

**24. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perras, in view of Cheng et al (Pat. No. 6,076,181) hereinafter Cheng-181.**

25. With respect to claim 22, the combination of Perras and Jayapalan, but fail to disclose a method for buffering data packets.

However Cheng-181 discloses buffering the data packets prior to the successful establishment of a radio air link to the mobile subscriber (Cheng-181: Col. 6, lines 64-67; Col. 7, lines 1-14).

It would have been obvious to one skilled in the art at the time the invention was made to combine the combination of Perras and Jayapalan with Cheng-181 because a buffer improves the efficiency of configuring users on the wireless network (Cheng-181: Col. 3, lines 28-37).

#### **(10) Response to Argument**

26. With respect to claims 1, 16, and 18, the applicant argues that the combination of Perras and Jayapalan fails to disclose *waiting a time period to allow establishment of the radio air link*.

27. The examiner respectfully disagrees. Jayapalan discloses a wait time prior to establishing a point to point connection between two peers (paragraph [0024], lines 1-6). The wait time is established to optimize the setup time between the two peers based on historical measurements recorded by the system (paragraph [0024], lines 15-22). Once the establishment of the link is made between the peers, a point to point communication session ensues without the extraneous need for additional negotiation loops (paragraph [0023], lines 8-11).

28. With respect to claim 8, the applicant argues the combination of Perras and Jayapalan fails to disclose *sending a signal from the packet data server to trigger the*

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*establishment of a radio air link between the base station and the mobile subscriber to allow communication between the packet data server and the mobile subscriber.*

29. The examiner respectfully disagrees. Perras clearly discloses packet data server node (PSDN) issuing agent advertisement message, which acts as a trigger in that it includes the necessary information for mobile subscriber to initiate and establish communication with base stations (column 4, lines 63-67).

30. With respect to claims 1, 3, 6-11, 13 and 16-23, the applicant argues that it would not have been obvious the combine the teachings of Perras and Jayapalan.

31. The examiner respectfully disagrees. Not only would it have been obvious to one skilled in the art at the time the invention was made to combine the combination of Perras and Jayapalan, but such a combination discloses the waiting time of the instant invention. Motivation to combine is provided in the Background of the Invention of Jayapalan, solving the problem of reducing multiple negotiations to improve the quality of communication (paragraph [0005]). Furthermore, and contrary to the applicants assertion, Jayapalan discloses more than just, " a PPP session in which waiting takes place," the reference discloses a method whereby a series of algorithms are implemented to efficiently negotiate configurations requests. If the applicant insists that such a negotiation is accomplished prior to any radio air link communication taking place, the examiner contends that such an embodiment is impossible if the connecting party wishes to communicate strictly via a wireless connection.

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32. With respect to claims 4, 5, and 12, the applicant argues that the combination of Perras, Jayapalan, and Kokko fails to disclose *a fixed wait time*.

33. The examiner respectfully disagrees. The predetermined period of Kokko allows for 100 millisecond delay before the processing of packets occurs (column 9, lines 5-13). Kokko allocates the permission request frames by priority levels, which result in various waiting times for different levels of priority (column 8, lines 56-62), but remain fixed once the priority level is assigned.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

7/22/10

/BLAKE RUBIN/

Examiner, Art Unit 2457

Conferees:



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